

Amendment No. 1 to SB2742

Bell
Signature of Sponsor

AMEND Senate Bill No. 2742

House Bill No. 2171*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 24, Chapter 1, Part 2, is amended by adding the following language as a new section:

(a) Except as provided in subsection (d) or unless a report of abuse is otherwise required by law, an advocate shall not be compelled to disclose any of the following in a judicial, legislative, or administrative proceeding:

- (1) A communication, including verbal, written, or otherwise stored information, received by the advocate from a victim;
- (2) Records regarding the victim stored by the advocate in the course of business;
- (3) Counseling the victim received;
- (4) Crisis intervention services the victim received; or
- (5) The location of the shelter that accommodated the victim.

(b) The victim may waive the privilege of the communication in subsection (a) only by express written consent. A victim's consent is not implied when the victim is a party to any judicial, legislative, or administrative proceeding. The privilege terminates upon the death of the victim.

(c) This section does not limit the defendant's right of cross-examination of the advocate in a proceeding when the advocate testifies with the written consent of the victim, or is otherwise compelled to testify by law or the court pursuant to subsection (d).

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(d) An advocate shall not disclose a confidential communication received by the advocate from a victim except:

(1) To other advocates of the victim services provider and third-party providers, with the victim's written consent, when and to the extent necessary to facilitate the delivery of services to the victim;

(2) To a law enforcement agency to the extent necessary to:

(A) Protect the victim or another individual from a substantial risk of imminent and serious physical injury; or

(B) Disclose the location of a victim or permit the law enforcement agency to contact or interview the victim in furtherance of a criminal investigation;

(3) To make a report regarding child abuse or neglect as required by § 37-1-403, child sexual abuse as required by § 37-1-605, or elder abuse as required by § 39-15-509;

(4) To disclose any confidential communications relevant to a claim or defense if the victim files a lawsuit against an advocate or a victim services provider; or

(5) Upon an order of the court compelling disclosure if, upon the motion of a party, the court determines that:

(A) The information sought is relevant and material evidence of the facts and circumstances involved in an alleged criminal act which is the subject of a criminal proceeding;

(B) The probative value of the information outweighs the harmful effect of disclosure, if any, on the victim, the advocate relationship, and the treatment services; and

(C) The information cannot be obtained by reasonable means from any other source.

(e) For purposes of this section:

(1) "Advocate" means an employee or volunteer of a domestic violence shelter, crisis line, or victim's services provider that provides services for victims of domestic violence, sexual assault, stalking, or human trafficking who has completed a minimum of twenty (20) hours of relevant training from a victim services provider; and

(2) "Victim" means a person seeking assistance because the person is a domestic abuse victim as defined by § 36-3-601, a victim of an offense under title 39, chapter 13, part 5, a trafficked person as defined by § 39-13-314, or a victim of stalking as defined by § 39-17-315, regardless of where or how the person seeks or receives services.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.